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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/543,143

07/22/2005

Tae-Song Kim

KIST.2120.0001

7804

89980

7590

12/23/2009

North Star Intellectual Property Law, PC

P.O. Box 34688

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EXAMINER

CANDLER, SAMUEL M

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

12/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/543,143	Applicant(s) KIM ET AL.	
	Examiner SAMUEL CANDLER	Art Unit 3739	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet Below.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/John P Leubecker/
 Primary Examiner, AU 3739

/SAMUEL CANDLER/
 Examiner, Art Unit 3739

Regarding Arguments concerning electrodes being located on the sensor surface of Brockway et al, the Examiner respectfully disagrees. First, enlargement of Figs. 4 and 5 does not conclusively show that electrodes 405a, b are located inside of sensor 400 and not, in any way, on the surface of sensor 400. Additionally, saying the sensor 'carries' the electrodes would not conclusively show that the electrodes are only located inside of the sensor. Also, the paragraphs of Brockway et al pointed to by the Applicant using the phrase 'carrying' apply to a different embodiment (that of Fig. 3) than the one pointed to by the examiner (Fig. 4). Though Brockway et al does not explicitly disclose electrodes 405a, b as on the outer surface of sensor 400 in the written specification, a current is transferred between electrodes 405a, b, through the body, to a set of receiving electrodes 410a, b installed on the outer surface of the human body. This current transfer would require some contact between electrodes 405a, b and the interior of the human body which mean the electrodes would have to at least be partially installed on the surface of sensor 400 in order to contact the interior of the human body.

Regarding Arguments concerning the capabilities of the device of Gersheneld et al, the Examiner respectfully disagrees. The Applicant claims that the device of Gersheneld et al cannot transmit signals through the human body. Gersheneld et al explicitly discloses transmitting signals through the human body in col. 4 lines 49-54 and col. 6 lines 33-37. Additionally, seeing that the device of Gersheneld et al has the capability of transmitting a signal from the exterior of the body, through the interior of the body, and back to the exterior of the body, the Examiner finds it reasonable that the device is capable of transmitting a signal from the interior of the body to the exterior of the body.

Regarding Arguments concerning the location of electrodes in the device of Brockway et al, the Examiner respectfully disagrees. As stated previously, Brockway et al states that 'structural and electrical changes may be made without departing from the spirit and scope of the present invention.' The location of the electrodes does not appear to significantly alter the functionality of the device, and the Examiner maintains that the alterations as claimed would be obvious.

Regarding Arguments concerning the current limitation taught in Holmes et al, the Examiner respectfully disagrees. The current limit circuit of Holmes et al should be viewed as a resistor connected serially having a capacitor connected in parallel. Review Fig. 1 of Holmes in view of Fig. 4 element 140 of the present application.

/SAMUEL CANDLER/
Examiner, Art Unit 3739